

# MUTUAL AGREEMENT PROCEDURE (MAP) SERVICES



U.S. taxpayers who are subject to double taxation because of a transfer pricing adjustment or other tax assessment, either in another country or in the United States can seek relief through a Mutual Agreement Procedure (MAP).

## What Is MAP?

MAP is a dispute resolution mechanism established by income tax treaties to help taxpayers when a tax assessment (often due to transfer pricing concerns) imposed by one treaty country results in the taxation of income that has already been taxed by the other country.

In simple terms: if the IRS and a foreign tax authority both want to tax the same money, MAP is the formal diplomatic channel that lets those two governments

negotiate a fair resolution so the taxpayer can avoid paying tax twice on the same income.

U.S. tax treaties allow a taxpayer to request MAP if the taxpayer believes it is, or will be, subject to double taxation. MAP is only available in situations in countries with which the United States government has concluded a tax treaty. Not all countries have a tax treaty with the United States.

## Who Would Be Interested?

MAP is primarily relevant to anyone with cross-border tax exposure between the U.S. and a treaty partner country. That can include U.S. companies with foreign subsidiaries or affiliates, foreign headquartered companies with U.S. subsidiaries or affiliates, or individual taxpayers with international ties.

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## How the MAP Process Works: Step by Step

### 1. A double-tax situation arises.

A tax authority (either the IRS or its foreign counterpart) imposes an adjustment to a taxpayer's income that creates a conflict with how the other country has already taxed that income.

### 2. The taxpayer files a MAP request.

The taxpayer submits a request to the designated competent authority, identifying the relevant tax treaty and articles, and demonstrating how double taxation has occurred or is likely to occur. This request is made through a mailed formal letter supported by electronic submissions of related details. In the U.S., this request goes to the IRS's Advance Pricing and Mutual Agreement (APMA) program. In some cases, it may be advantageous (or required) for the U.S. taxpayer to participate in a pre-filing conference with the U.S. competent authority before submitting a MAP request.

### 3. The U.S. Competent Authority reviews and accepts (or declines) the case.

The U.S. competent authority may decline to accept the request if it is defective, if the taxpayer is clearly not eligible for assistance under the treaty, or if the taxpayer has engaged in certain prejudicial conduct such as impeding the IRS examination function.

### 4. The two governments negotiate.

Once the MAP request has been accepted, the tax authority negotiates with its counterpart in the treaty partner country. The taxpayer is not directly involved in MAP negotiations.

### 5. An agreement is reached (or not).

The MAP process generally resolves disputes in one of three ways: withdrawal of the adjustment by the jurisdiction that asserted it; correlative relief from double taxation from the other jurisdiction; or some combination of withdrawal and correlative relief.

### 6. The taxpayer accepts or rejects the outcome.

Once an agreement has been reached, the taxpayer is normally informed in writing with an explanation of the result. If the outcome is accepted by the taxpayer, written confirmation of the agreement is exchanged between the tax authorities.

### 7. The resolution can be extended forward.

A MAP resolution can often be rolled forward to subsequent filed but unexamined tax years through the Accelerated Competent Authority Procedure (ACAP) or extended for five or more prospective years through the bilateral Advance Pricing Agreement (APA) process. This process compresses the timeline and builds investor confidence.

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## Key Considerations

- U.S. taxpayers can informally consult with the U.S. competent authority, on either a named or no-name basis, to better understand the process and the likelihood that MAP will produce the hoped-for benefits. However, the taxpayer should understand that statements made in such informal consultations are not binding on the IRS.
- MAP can be slow. Cases often take several years to resolve, and there is no guarantee the two governments will reach an agreement. Taxpayers need to plan for a long process.
- Companies should be careful in their discussions with foreign tax authorities. Agreements or concessions made to foreign authorities can limit the ability to reach resolution of double tax under MAP and could also limit the IRS' ability even to accept a MAP request.

The transfer pricing and international tax specialists at KBF Advisory can help you decide if MAP makes sense for you, and can help you manage the application process.

To learn more about our Mutual Agreement Procedure Services, contact Jon Jenni at [jjenni@kbfadvisory.com](mailto:jjenni@kbfadvisory.com) or Jonathan Voll at [jvoll@kbfadvisory.com](mailto:jvoll@kbfadvisory.com).

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